



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,946	08/18/2003	James W. Ryan	JR-14000-CON	4300
7590 Cheryl H. Agris, Ph.D. P.O. Box 806 Pelham, NY 10803	03/25/2008		EXAMINER ZARA, JANE J	
		ART UNIT 1635	PAPER NUMBER	
		MAIL DATE 03/25/2008	DELIVERY MODE PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/642,946	RYAN, JAMES W.	
	Examiner	Art Unit	
	Jane Zara	1635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 27 January 2008.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-4,6-8,10,11,14-16 and 25-31 is/are pending in the application.

4a) Of the above claim(s) 7 and 25-29 is/are withdrawn from consideration.

5) Claim(s) 1-4,6,10 is/are allowed.

6) Claim(s) 16 is/are rejected.

7) Claim(s) 8, 11, 14, 15, 30 and 31 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 1-27-08.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application

6) Other: _____.

DETAILED ACTION

This Office action is in response to the communications filed 1-27-08.

Claims 1-4, 6-8, 10, 11, 14-16, 25-31 are pending in the instant application.

Claims 7, 25-29, and SEQ ID Nos. other than SEQ ID NO. 8 and other than the intron subsequence comprising nucleotides 9015-10,641 of SEQ ID NO. 8, are withdrawn from examination, as being drawn to non-elected inventions.

Claims 1-4, 6, 8, 10, 11, 14-16, 30 and 31 have been examined on their merits as set forth below.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1-27-08 has been entered.

Response to Arguments and Amendments

Withdrawn Rejections

Any rejections not repeated in this Office action are hereby withdrawn.

New Rejections

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 depends from claim 14, which claims a single nucleic acid molecule.

Claim 16, however, encompasses a kit comprising the single nucleic acid molecule of claim 14, as well as a plurality of nucleic acid molecules. It is unclear, however, what is encompassed by this "plurality of nucleic acid molecules." The metes and bounds of the claimed invention cannot be determined.

Appropriate clarification is required.

Allowable Subject Matter

Claims 1-4, 6, 10 appear free of the prior art searched and of record.

Claims 8, 11, 14, 15, 30 and 31 are objected to because of the following informalities: They recite or depend from claims that recite and/or encompass additional intronic sequences, other than the elected intronic subsequence comprising nucleotides 9015-10,641, which additional intronic sequences (particular subsequences of SEQ ID NO. 8) have been withdrawn from examination as being drawn to non-elected inventions.

Appropriate correction is required.

Conclusion

Certain papers related to this application may be submitted to Art Unit 1635 by facsimile transmission. The faxing of such papers must conform with the notices published in the Official Gazette, 1156 OG 61 (November 16, 1993) and 1157 OG 94 (December 28, 1993) (see 37 C.F.R. ' 1.6(d)). The official fax telephone number for the Group is 571-273-8300. NOTE: If Applicant does submit a paper by fax, the original signed copy should be retained by applicant or applicant's representative. NO DUPLICATE COPIES SHOULD BE SUBMITTED so as to avoid the processing of duplicate papers in the Office.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane Zara whose telephone number is (571) 272-0765. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Schultz, can be reached on (571) 272-0763. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jane Zara
3-21-08

/Jane Zara/

Primary Examiner, Art Unit 1635